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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,094	10/17/2003	Daniel Klees	210-031	9102
7590 07/22/2005 Felix J. D'Ambrosio JONES, TULLAR & COOPER, P.C. P.O. Box 2266 Eads Station Arlington, VA 22202			EXAMINER RAEVIS, ROBERT R	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/687,094	Applicant(s) KLEES ET AL.	
	Examiner Robert R. Raevis	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claims 2, 7/2 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

On p. 7, how do "parallel" (line 14) connected meters (meter 5 or 7, is parallel to meter 21) permit for the relation of lines 15-17 that provide for determination of a meaningful/usable proportionality "constant" (line 17)? After all, meters do not have the same internal resistances, and thus as more fluid passed downward from line 11, more (or less) fluid will pass through one meter than the other meter. The relationship will not provide for a meaningful/usable "constant" of proportionality, as the "constant" will vary with different flow rates. It would appear that only two meters *in series* could provide for an enabling proportionality constant.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, "and" (line 3 from last) is not consistent with "or" (line 8 from last). What does the term "manifold" imply? Normally, the term implies a fluid structure with at least three apertures (at least one inlet, and at least two outlets). However, this claim

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(and even the written specification) seems to suggest that a manifold may line one source 1 to "one" pipe, which suggests a single fluid line. What does the term "manifold" mean in claim 1? Finally, the phrase "pure sterilized water or a source (40) of a sterile conductive solution" (lines 2-3) is indefinite as the phrase incorporates two (patentably) distinct embodiments. Applicant is encouraged to delete reference to one of the two.

As to claim 2, are the "a flow meter" (italics added, line 3) and "a flow meter calibration cart" (italics added, lines 3-4) the same as those of claim 1? Does claim 2 include a minimum of two flow meters?

As to claim 3, are the "a flow meter" (line 3) and "a flow meter calibration cart" (lines 3-4) the same as those of claim 1? Does claim 3 include a minimum of two flow meters?

Claim 8 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend upon another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 8 has not been further treated on the merits.

Claims 1, 7/1, 3, 7/3, 4, 7/4, 5, 7/5, 6, 7/6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krause et al in view of Draus.

Krause et al teach a rig including: source 16 of water, manifold 54/58a/58b, flow meter M, and drain pipe 86a-86f; but the water is not called "pure sterilized" water.

As to claims 1, 7/1, 4, 7/4, it would have been obvious to utilize pure water in a flow meter calibration because Draus teaches use of "clean water" (col. 3, line 15) to accurately calibrate flow meters in a consistent manner.

As to claims 5 and 7/5, Krause's provers 22-32 are suggestive of any meter to calibrate, suggestive of use of a weighing tank that (even) permits for more measurements.

As to claims 3 and 7/3, provers 22-32 may be called a calibrated reference flow meter, as they are used to calibrate a flow meter.

As to claims 6, 7/6, note that Krause teaches use of a "predetermined volumes of liquid" (col. 2, line 30; col. 8, lines 41-42) for calibration. Such fluid is supplied through valve 56.

Claims 3 and 7/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krause et al in view of Draus as applied to claim 1 above, and further in view of De Boom et al.

As to claims 3 and 7/3, it would have been obvious to employ a "calibrated reference flow meter" in place of Krause's provers 22-32 because De Boom et al teach use of flow meters 112 to calibrate a meter under test that is fluidly connected in series. De Boom's meters would allow for a plurality of flow measurements for comparison with the meter under test.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conti refers to distilled water (col. 5, line 50) in calibration.

Kurki et al (Figure 5), Korpi (Figure 1) and Francisco Jr (elements 72, 78) teach manifold usage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.



RAEVIS